



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/695,609
Applicants : Guy Harrison
Filed : October 23, 2000
TC/A.U. : 3644
Examiner : Todd D. Ingberg

Title : **A MONITORING
SYSTEM FOR
MONITORING THE
PERFORMANCE OF AN
APPLICATION**

Docket No. : QSOFT.004A
Customer No. : 20,995

DECLARATION UNDER 37 C.F.R. § 1.132 OF GUY HARRISON

Assistant Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

1. I am the sole inventor named in U.S. Provisional App. Ser. No. 60/167,326 (the "326 provisional application").
2. I am familiar with the contents of the '326 provisional application and the subject matter disclosed therein.
3. I am familiar with the currently pending claims in the above-captioned utility patent application.
4. I have been informed that the Patent Office has rejected various claims in the above-captioned utility patent application as being in public use or on sale because of a publication describing a release date of June 18, 1999, of Quest Software's Instance Monitor™ version 1.0.
5. The contents of the '326 provisional application include descriptions of the subject matter of the pending claims, include sufficient detail that a person skilled in the art can make and use the subject matter of the pending claims, and sets forth the best mode

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of the pending claims. The code and text provided in the '326 provisional application include, for example:

- (a) The SQL.DAT document includes SQL statements issued by one or more of the 1999 versions of Quest Software's Instance Monitor™.
- (b) The Database Layer (SQL*NET) document includes a description of the syntax used in the SQL.DAT file.
- (c) The lmoms_alarms.txt document includes a description of metrics, or parameters, monitored in one or more of the 1999 versions of Quest Software's Instance Monitor™.
- (d) The Internet Printout, the Brochure, the Installation Guide, the Tuning Guide, and the User's Guide each disclose subject matter from one or more of the 1999 versions of Quest Software's Instance Monitor™.

6. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Respectfully submitted,

Dated: 17 September 2004

By: Guy Harrison
Guy Harrison

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